

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS**

ANTWON D. JENKINS,)	
)	
Plaintiff,)	
)	Case No. 21-CV-1371-JPG
v.)	
)	Jury trial requested
KENNY BENZING, et al.,)	
)	
Defendants.)	

DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT

Defendant Kenny Benzing, in his individual capacity only, by and through his attorney, Bhairav Radia, submits the following answer and affirmative defenses to Plaintiff’s complaint (Doc. 1) in accordance with this Court’s Administrative Order # 244:

1. After conducting a merit review of Plaintiff’s Complaint, the Court severed Counts 2-4 into new cases, dismissed Counts 2-4 from this action with prejudice, and allowed Plaintiff to proceed with Count 1, a Fourteenth Amendment failure-to-protect claim against Defendant Kenny Benzing (Jail Administrator), John/Jane Doe 1 (Sergeant #1), John/Jane Doe 2 (Sergeant #2), and John/Jane Doe 3 (Officer #1), for allegedly failing to protect Plaintiff from an inmate attack that occurred on November 11, 2019, even after he advised these defendants of threats by his attackers on September 25, 2019, September 27, 2019, and October 16, 2019. See Order, Doc. 14.

2. Defendant Benzing admits he was employed as the Jail Administrator of Marion County Jail during Plaintiff’s detention in the Marion County Jail in 2019. Defendant Benzing denies, however, that he is still so employed; and states that he left the employment of the Marion County Sheriff’s Office in the summer of 2021.

3. Defendant Benzing denies that he failed to protect from the alleged inmate attack that occurred on November 11, 2019.

4. Defendant Benzing denies that he was aware or advised of threats received by Plaintiff from his attacker or attackers at any time before the alleged November 11, 2019 attack, including on September 25, 2019, September 27, 2019, and October 16, 2019.

5. Defendant Benzing denies that he violated Plaintiff's Fourteenth Amendment rights.

6. Defendant Benzing denies that he caused Plaintiff's injuries.

7. Defendant Benzing denies Plaintiff is entitled to any of the relief he seeks in this action.

AFFIRMATIVE DEFENSES:

1. At all times relevant to Plaintiff's Complaint, Defendant Kenny Benzing acted in good faith in the performance of his discretionary duties as a jail administrator in the Marion County Jail without knowingly violating Plaintiff's clearly established rights. Defendant Benzing is protected by qualified immunity.

2. Plaintiff is barred from bringing this action by the Prison Litigation Reform Act, 42 U.S.C. §1997e(a), because Plaintiff, a prisoner when he filed this action, did not properly exhaust the administrative remedies available to him through the grievance procedure at the Marion County Jail with respect to his claim before filing this lawsuit.

JURY DEMAND

Defendant Benzing requests a jury trial.

For these reasons, Defendant Benzing requests this Court to deny the relief sought in Plaintiff's Complaint and order Plaintiff to pay Defendant's costs if Defendant prevails in this

action.

Respectfully submitted,

KENNY BENZING, in his individual capacity only,

By: s/Bhairav Radia
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CERTIFICATE OF SERVICE

I hereby certify that on September 12 2022, I electronically filed this Defendant's motion for extension of time with the Clerk of the Court using the CM/ECF system, and I will send notification of such filing to the following non-registered participant:

Antwon D. Jenkins, #09778-025
Talladega Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 1000
Talladega, AL 35160

via U.S. Mail by depositing same in a sealed envelope, proper postage prepaid and affixed thereon and placing same in the U.S. Mail receptacle located at 650 Dundee Road, Northbrook, IL, at or before the hour of 5:00 p.m. on September 12 2022.

By: s/Bhairav Radia
Bhairav Radia, #6293600
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